IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 100 OF 2006

RAMESH M. BANDODKAR AND 7 ORS., ...Appellants

Versus

SHRI NILCONTA G. AMONKAR THROUGH ITS ATTORNEY SHRI GAJANAN NILCONTA AMONKAR AND ANR., ...Respondents

Mr.M.B. D'Costa, Sr. Advocate with Mr. J.A. Lobo, Advocate for the Appellants.

Mr. N. N. Sardessai, For Resp. No. 1.

Coram:- S.K. SHAH, J.

Date:- 8th February, 2007

P.C.:

Heard the learned Counsel on both sides.

2. I have perused the record. I have been taken through the pleadings and the judgments of the trial Court as well as the lower appellate Court. There is concurrent finding with regard to the ownership of the land and the house which belongs to the plaintiffs.

3. The contention of the defendants was that the set-back portion of 2.5 metres which existed in front of the plaintiffs's house did not belong to the plaintiffs. However, there is concurrent finding in this regard given by both the Courts below that it belongs to the plaintiffs and it forms part of the entire property which admeasures 545 sq.metres. The learned counsel for the defendants/appellants further submits that, in fact, the set-back should have been 3 metres from the side of the plaintiffs' house and 3 metres from the side of the adjoining house belonging to one Sheik Kasim. This aspect is of little importance as the defendants do not claim

ownership or any right with regard to that portion of the property. Sheik Kasim is not coming forth. The claim of the plaintiffs that they have a right of way through the said suit land which is in front of the plaintiffs' house, that claim was made on the basis of the allegation that it was a public road. That has been turned down by the lower appellate Court and quite rightly so.

4. Under the circumstances, I do not find any substantial question of law in the appeal. The appeal is therefore dismissed.

S.K. SHAH, J.

sl.